UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK

EDITH SCHLAIN WINDSOR, in her capacity as executor of the estate of THEA CLARA SPYER,)))
Plaintiff,)
v.) No. 10-CV-8435 (BSJ)(JCF)
THE UNITED STATES OF AMERICA,)
Defendant.))

NOTICE OF APPEAL OF INTERVENOR-DEFENDANT THE BIPARTISAN LEGAL ADVISORY GROUP OF THE U.S. HOUSE OF REPRESENTATIVES

Intervenor-Defendant the Bipartisan Legal Advisory Group of the U.S. House of Representatives ("House") hereby appeals to the U.S. Court of Appeals for the Second Circuit the District Court's Order (June 6, 2012) (ECF No. 93), and Judgment (June 7, 2012) (ECF No. 94), both insofar as they grant plaintiff's [. . .] Motion for Summary Judgment (June 24, 2011) (ECF No. 28) and deny the [House]'s Motion to Dismiss (Aug. 1, 2011) (ECF No. 52). Copies of the Order and Judgment are attached as Exhibits A and B, respectively.

The statutory basis for this appeal is 28 U.S.C. § 1291. The House is exempt from the filing fee requirement for this appeal. *See* 28 U.S.C. § 1913; Judicial Conference of the United States, Court of Appeals Miscellaneous Fee Schedule, *available at*http://www.uscourts.gov/FormsAndFees/Fees/CourtOfAppealsMiscellaneousFeeSchedule.aspx.

Respectfully submitted,

/s/ Paul D. Clement

Paul D. Clement¹
H. Christopher Bartolomucci
Conor B. Dugan
Nicholas J. Nelson

BANCROFT PLLC 1919 M Street, N.W., Suite 470

Washington, D.C. 20036

Telephone: (202) 234-0090 Facsimile: (202) 234-2806

Counsel for Intervenor-Defendant the Bipartisan Legal Advisory Group of the U.S. House of Representatives²

OF COUNSEL:

Kerry W. Kircher, General Counsel William Pittard, Deputy General Counsel Christine Davenport, Senior Assistant Counsel Todd B. Tatelman, Assistant Counsel Mary Beth Walker, Assistant Counsel

OFFICE OF GENERAL COUNSEL U.S. HOUSE OF REPRESENTATIVES 219 Cannon House Office Building Washington, D.C. 20515

Telephone: (202) 225-9700 Facsimile: (202) 226-1360

June 8, 2012

,

¹ Kerry W. Kircher, as the ECF filer of this document, attests that concurrence in the filing of the document has been obtained from signatory Paul D. Clement.

² The Bipartisan Legal Advisory Group, which speaks for the House in litigation matters, is currently comprised of the Honorable John A. Boehner, Speaker of the House, the Honorable Eric Cantor, Majority Leader, the Honorable Kevin McCarthy, Majority Whip, the Honorable Nancy Pelosi, Democratic Leader, and the Honorable Steny H. Hoyer, Democratic Whip. The Democratic Leader and Democratic Whip decline to support the filing of this Notice of Appeal.

CERTIFICATE OF SERVICE

I certify that on June 8, 2011, I served one copy of the foregoing Notice of Appeal of Intervenor-Defendant the Bipartisan Legal Advisory Group of the U.S. House of Representatives by CM/ECF and by electronic mail (.pdf format) on the following:

Roberta A. Kaplan, Esq.
Andrew J. Ehrlich, Esq.
PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP
1285 Avenue of the Americas
New York City, NY 10019-6064
rkaplan@paulweiss.com; aehrlich@paulweiss.com

Alexis B. Karteron, Esq.
Arthur N. Eisenberg, Esq.
NEW YORK CIVIL LIBERTIES UNION FOUNDATION
125 Broad Street, Nineteenth Floor
New York City, NY 10004
akarteron@nyclu.org; arteisenberg@nyclu.org

James D. Esseks, Esq,
Melissa Goodman, Esq.
Rose A. Saxe, Esq.
AMERICAN CIVIL LIBERTIES UNION FOUNDATION
125 Broad Street
New York City, NY 10004
jesseks@aclu.org; mgoodman@nyclu.org; rsaxe@aclu.org

Jean Lin, Esq.
UNITED STATES DEPARTMENT OF JUSTICE, CIVIL DIVISION
20 Massachusetts Avenue, N.W., Seventh Floor
Washington, DC 20530
jean.lin@usdoj.gov

Simon Heller, Esq.
STATE OF NEW YORK OFFICE OF THE ATTORNEY GENERAL
120 Broadway
New York City, NY 10271
simon.heller@ag.ny.gov

/s/ Kerry W. Kircher Kerry W. Kircher